



DEFENSE LOGISTICS AGENCY
THE DEFENSE CONTRACT MANAGEMENT COMMAND
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FT. BELVOIR, VIRGINIA 22060-6221



IN REPLY
REFER TO

AQOK

JUL 19 1996

MEMORANDUM FOR COMMANDERS, DEFENSE CONTRACT MANAGEMENT
DISTRICTS

SUBJECT: DCMC Memorandum No. 96-30, Limitation on Individual Compensation
(INFORMATION)

This is an INFORMATION memorandum. Target Audience: Administrative Contracting Officers, Price Analysts, and Cost Monitors.

On July 10, 1996, a memorandum was issued by the Director, Defense Procurement (DDP), which amends Part 231 of the Defense Federal Acquisition Supplement (DFARS). It implements Section 8086 of FY 96 Defense Appropriations Act (Public Law 104-61). Section 8086 limits allowable costs for individual compensation to \$200,000 per year. The restriction applies to contracts awarded after July 1, 1996, using FY 96 funds.

As you will recall, costs for individual compensation in excess of \$250,000 per year are unallowable under DoD contracts that are awarded after April 15, 1995, and funded by FY 95 appropriations. We have attached a DDP memorandum of October 20, 1995, which clarified several aspects of the cap on compensation in FY 95. This guidance should be used in implementing both the FY 95 and FY 96 compensation caps.

Should you have any questions on this issue, please contact Mr. Glenn Gulden, Overhead Center of Excellence, at (703) 767-3406 or DSN 427-3406.

JILL E. PETTIBONE
Executive Director
Contract Management Policy

Attachments

1. DP (DAR) Memo, July 10, 1996
2. DP/CPF Memo, October 20, 1995



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
WASHINGTON DC 20301-3000



July 10, 1996

ACQUISITION AND
TECHNOLOGY

DP (DAR)

JUL 10 1996
In reply refer to
DFARS Case: 96-D314
D. L. 96-014

MEMORANDUM FOR DIRECTORS OF DEFENSE AGENCIES
DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS AGENCY

SUBJECT: Individual Compensation

We have amended Part 231 of the Defense Federal Acquisition Regulation Supplement (DFARS) to implement Section 8086 of the FY 1996 Defense Appropriations Act (Pub. L. 104-61). Section 8086 limits allowable costs for individual compensation to \$200,000 per year. This restriction applies to payments using funds appropriated in fiscal year 1996 under contracts awarded after July 1, 1996.

This interim DFARS rule is effective immediately and will be published in a future Defense Acquisition Circular.

Eleanor R. Spector
Director, Defense Procurement

Attachment

cc: DSMC, Ft. Belvoir



ATT 1

INDIVIDUAL COMPENSATION

PART 231--CONTRACT COST PRINCIPLES AND PROCEDURES

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SUBPART 231.2--CONTRACTS WITH COMMERCIAL ORGANIZATIONS

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231.205 Selected Costs.

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231.205-6 Compensation for personal services.

(a) (2) [(i)] Costs for individual compensation in excess of \$250,000 per year are unallowable under DoD contracts that are awarded after April 15, 1995, and are funded by fiscal year 1995 appropriations ([Section 8117 of] Public Law 103-335).

[(ii) Costs for individual compensation in excess of \$200,000 per year are unallowable under DoD contracts that are awarded after July 1, 1996, and are funded by fiscal year 1996 appropriations (Section 8086 of Public Law 104-61).]

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SUBPART 231.3--CONTRACTS WITH EDUCATIONAL INSTITUTIONS

231.303 Requirements.

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(3) The limitations] on allowable individual compensation at 231.205-6(a) (2) [(i)and(ii)]also appl[y]ies to this subpart.

SUBPART 231.6--CONTRACTS WITH STATE, LOCAL, AND FEDERALLY
RECOGNIZED INDIAN TRIBAL GOVERNMENTS

231.603 Requirements.

The limitations] on allowable individual compensation at 231.205-6(a) (2) [(i) and (ii)] also appl[y]ies to this subpart.

SUBPART 231.7--CONTRACTS WITH NONPROFIT ORGANIZATIONS

231.703 Requirements.

The limitations] on allowable individual compensation at 231.205-6(a) (2) [(i) and (ii)] also appl[y]ies to this subpart.



OFFICE OF THE UNDER SECRETARY OF DEFENSE

3000 DEFENSE PENTAGON
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ACQUISITION AND
TECHNOLOGY

DP/CPF

MEMORANDUM FOR DEPUTY FOR ACQUISITION AND BUSINESS MANAGEMENT ,
ASN(RD&A)/ABM
DEPUTY ASSISTANT SECRETARY OF THE AIR FORCE
(CONTRACTING), SAF/AQC
DIRECTOR, PROCUREMENT POLICY, ASA(RD&A)/SARD-PP
DEPUTY DIRECTOR (ACQUISITION), DEFENSE LOGISTICS
AGENCY
DIRECTORS OF DEFENSE AGENCIES

SUBJECT : Limitation on Allowable Individual Compensation

On December 14, 1994, we issued an interim Defense Federal Acquisition Regulation Supplement (DFARS) rule to implement the requirements of Section 8117 of the Department of Defense (DoD) Appropriations Act, 1995. DFARS 231.205-6(a) (2) states: "costs for individual compensation in excess of \$250,000 per year are unallowable under DoD contracts that are awarded after April 15, 1995, and are funded by fiscal year 1995 DoD appropriations (Public Law 103-335)."

Subsequent questions have indicated a need for clarifying guidance on several aspects of this new rule. First, as explained in the Background information accompanying its January 9, 1995 publication in the *Federal Register*, this DFARS rule uses the same broad definition of compensation as the FAR 31.205-6 Compensation cost principle, which it supplements.

In addition, we wish to emphasize that this rule only applies to new DoD contracts awarded after April 15, 1995, and then only to those contract line items that use FY95 DoD funds. This means, for example, that if a DoD contract awarded after April 15, 1995 using FY95 DoD funds also contains separately priced options which are to be funded with subsequent DoD appropriations, the limitation on allowable individual compensation would only apply to the contract line items funded with the FY95 moneys. Moreover, an extension or modification after April 15, 1995 of a DoD contract awarded on or before that date does not constitute a new contract for purposes of this rule. Accordingly, the limitation on allowable individual compensation would not apply to a separately priced option under any DoD contract awarded on or before April 15, 1995, even if that option is subsequently exercised using FY95 DoD funds.



ENCLOSURE

ATT 2

Because of these relatively narrow applicability criteria, we would expect that, in most cases, the limitation on allowable individual compensation will apply only to a small portion of a contractor's total FY95 Government contracts. Therefore, affected contractors should be permitted, at their option, to propose two sets of FY95 overhead rates -- one set for those contracts to which the limitation applies, and one set for those contracts to which it does not apply. Contracting officers may also consider alternative approaches to the two rate system if it can be clearly demonstrated that the limitation will be satisfied in all cases.

Finally, we wish to emphasize that **DFARS** 231.205-6(a)(2) constitutes an allowability cap, and not a recovery cap. This means that for indirect costs, \$250,000 is the maximum amount of otherwise allowable individual compensation which a contractor may include in its overhead pool for application to contracts subject to this rule. The amount of actual recovery will be determined by application of the limited overhead rate to such contracts. Of course, any otherwise unallowable individual compensation shall not be counted against the \$250,000 limitation by the Government.

Please ensure that this guidance is disseminated to all appropriate personnel.

A handwritten signature in cursive script that reads "Eleanor R. Spector". The signature is written in black ink and is positioned above the typed name and title.

Eleanor R. Spector
Director, Defense Procurement